

Appl. No. 10/733,560  
Docket No. AA554C  
Amdt. dated May 25, 2007  
Reply to Office Action mailed on January 26, 2007  
Customer No. 27752

## REMARKS

### Claim Status

Claims 1-2 and 5-10 are pending in the present application. No additional claims fee is believed to be due.

Claim 4 has been cancelled without prejudice.

Claim 1 has been amended to change to more specifically characterize the claimed invention and to incorporate the limitations of Claim 4. Support for this amendment can be found in the specification, e.g., at page 5, line 32 through page 6, line 17.

It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

### Rejection Under 35 USC §101

Claims 1-2 and 5-10 have been rejected under 35 USC §101 as allegedly directed to non-statutory subject matter. This rejection is respectfully traversed. Claim 1 has been amended. Therefore, Applicants respectfully submit that the rejection under 35 USC §101 is moot and withdrawal of the rejection is requested.

### Rejection Under 35 USC §103(a) Over Hisanaka et al. (US 2002/0096182) in view of Teagarden et al. (US 6,014,631)

Claims 1, 2 and 10 have been rejected under 35 USC §103(a) as being unpatentable over Hisanaka et al. (US 2002/0096182) in view of Teagarden et al. (US 6,014,631). This rejection is respectfully traversed.

Applicants respectfully submit that the Office Action has failed to set forth a *prima facie* case of obviousness in accordance with M.P.E.P. 2143. Specifically, the Office Action has failed to provide evidence as to where in Hisanaka and/or Teagarden is a teaching or motivation to provide each element of the claimed invention.

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Hisanaka is directed to a "method of evaluating and selecting an absorbent article using the cardiac rate fluctuation of the wearer as a measure." (Abstract). As such, Applicants respectfully submit that Hisanaka does not teach or suggest the claimed invention. The Office Action cites to paragraph 0007 as teaching a method of selection of an absorbent article using information provided by a care person. Applicants respectfully submit that paragraph 0007 of Hinsanaka teaches away from the use of information by a care person by stating "[s]aid selection [by a care person or helper] is thus not necessarily in accord with the physiological or psychological requirements of the users." The Office Action also cites to paragraph 0011 as teaching that selection of the absorbent article is conducted to conform to the user's physiological and psychological requirements. Applicants respectfully submit that the selection of Hinsanaka is performed using cardiac fluctuation to ascertain internal conditions of the wearer (para. 0012), in contrast to the method as claimed by Applicants.

The Office Action relies on Teagarden as teaching that the information includes information about incontinence devices that are currently used by the incontinent person. Teagarden is directed to "a computer implemented and/or assisted process for controlling drug or health care spending and/or use while improving or maintaining the quality of care in a patient population." (Col. 1, lines 9-12). Applicants respectfully submit that they have reviewed the Office Action's citations to Teagarden and do not see where in the citations Teagarden teaches or suggests Applicants claimed invention. Thus, Applicants respectfully submit that Teagarden does not cure the deficiencies of Hisanaka.

Furthermore, because Hisanaka is directed to a method of evaluating and selecting an absorbent article using the cardiac rate fluctuation of the wearer as a measure and Teagarden is directed to a computer implemented and/or assisted process for controlling drug or health care spending and/or use while improving or maintaining the quality of care in a patient population, Applicants submit that Hisanaka and Teagarden are not analogous to each other or to the problem addressed by Applicants' invention and cannot properly be combined. *See, e.g.*, M.P.E.P. 2141.01(a). In addition, the Office Action has failed to present any evidence that one ordinarily skilled in the art would have a reasonable expectation of success in achieving Applicants' invention in view of the combination of Hisanaka and Teagarden. Applicants respectfully submit that even

Appl. No. 10/733,560  
Docket No. AA554C  
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assuming Hisanaka and Teagarden could be properly combined, Applicants' claimed invention would not result.

In view of the above, Applicants respectfully submit that the Office Action has not set forth a *prima facie* case of obviousness and withdrawal of the rejection under 35 USC §103(a) over Hisanaka in view of Teagarden is requested.

Rejection Under 35 USC §103(a) Over Hisanaka et al. (US 2002/0096182) in view of Teagarden et al. (US 6,014,631) and further in view of Snitkin (US 2003/0046111)

Claims 4-9 have been rejected under 35 USC §103(a) as being unpatentable over Hisanaka et al. (US 2002/0096182) in view of Teagarden et al. (US 6,014,631) and further in view of Snitkin (US 2003/0046111). This rejection is respectfully traversed.

Applicants respectfully submit that the Office Action has not set forth a *prima facie* case of obviousness with respect to the combination of Hisanaka, Teagarden, and/or Snitkin. As set forth above, the Office Action has not shown where Hisanaka in view of Teagarden teaches or suggests the claimed invention. The Office Action cites to Figure 3d of Snitkin as showing a method for treating pelvic floor disorders. Applicants respectfully submit that Snitkin describes Figure 3d as showing a "computer screen usable in a sling registry." (Para. 0067). The Office Action further cites to paragraph 0013 of Snitkin as providing a motivation to combine Hisanaka, Teagarden, and Snitkin. Paragraph 0013 states that "the present invention is directed to the evaluation and improvement of healthcare by collecting, managing and disseminating information relating to the treatment of incontinence, pelvic floor disorders, and the like." Applicants respectfully submit that they do not see where the cited passages teach or suggest the claimed invention.

In addition, the Office Action has failed to present any evidence that one ordinarily skilled in the art would have a reasonable expectation of success in achieving Applicants' invention in view of the combination of Hisanaka, Teagarden, and Snitkin. Applicants further submit that even assuming Hisanaka, Teagarden, and Snitkin could be properly combined, Applicants' claimed invention would not result. As such, Applicants respectfully submit that the Office Action has not shown where the combination of

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Hisanaka, Teagarden, and/or Snitkin teaches or suggests each and every element of the claimed invention.

Therefore, Applicants respectfully submit that the Office Action has not set forth a *prima facie* case of obviousness and withdrawal of the rejection under 35 USC §103(a) in view of Hisanaka, Teagarden, and Snitkin is requested.

Conclusion

In view of the foregoing, entry of the amendment(s) presented herein, reconsideration of this application, and allowance of the pending claim(s) are respectfully requested.

Respectfully submitted,

THE PROCTER & GAMBLE COMPANY

By

  
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